

# **U.S. EXHIBIT 3**

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3 Civil Action No. 1:14-cv-14176-ADB

4  
5 STUDENTS FOR FAIR ADMISSIONS, INC.,

6 Plaintiff,

7 v.

8 PRESIDENT AND FELLOWS OF

9 HARVARD COLLEGE

10 (HARVARD CORPORATION),

11 Defendant.

12  
13  
14 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

15  
16 DEPOSITION of MICHAEL SMITH

17 Boston, Massachusetts

18 April 23, 2018

19  
20  
21  
22 Reported by:

23 Dana Welch, CSR, RPR, CRR, CRC

24 Job Number: 140867

1                   HIGHLY CONFIDENTIAL - AEO - SMITH

2           Q.   Do you know if it was counsel that drafted  
3   it?

4           A.   I, again, couldn't say for certain who  
5   drafted it.

6           Q.   The second to last paragraph says, "I  
7   anticipate that this committee's work will take  
8   place during the next four to five months with the  
9   completion of this work during the fall of 2017.  
10   The committee will produce a report, and I will  
11   share that report with the president of the  
12   university."

13                  Why did you anticipate that the  
14   committee's work would take place over the next  
15   four to five months and be completed in the fall of  
16   2017?

17           A.   As I understood the court case from the  
18   SFFA's complaint, that was the timeline in which  
19   people believed the report of this committee would  
20   be needed.

21           Q.   So it was tied to the litigation?

22                  MS. ELLSWORTH:   Object to the form of the  
23   question.

24           A.   A particular deadline that we might be  
25   able to make was tied to the litigation, yes.

1                   HIGHLY CONFIDENTIAL - AEO - SMITH

2           Q.   Do you remember who told you that you  
3   would have more time to draft this or to complete  
4   the work of the committee?

5           A.   I'm not sure I'm following your question.  
6   Have you changed from this time frame?

7           Q.   So the committee's work was not completed  
8   until April --

9           A.   Yes.

10          Q.   -- of 2018?

11          A.   Sorry.   Yes.

12          Q.   Did someone, at some point, tell you that  
13   the committee had more time to complete its work  
14   because of the -- because of how fast the  
15   litigation was proceeding?

16               MS. ELLSWORTH:   Object to the form.

17          A.   I recall the conversation more along the  
18   lines of when would we be getting the next expert  
19   witness report that we could use in the committee,  
20   and that naturally extended the deadlines as  
21   opposed to the way you phrased it.

22               MR. CONNOLLY:   Like to mark as Exhibit 4,  
23   a document with the Bates number ending 97308.

24               (Exhibit 4, HARV00097308 - 97309, marked  
25   for identification.)

## 1 CERTIFICATE

2 Commonwealth of Massachusetts

3 Suffolk, ss.  
4

5 I, Dana Welch, Registered Professional  
6 Reporter, Certified Realtime Reporter and Notary  
7 Public in and for the Commonwealth of  
8 Massachusetts, do hereby certify that MICHAEL  
9 SMITH, the witness whose deposition is hereinbefore  
10 set forth, was duly sworn by me and that such  
11 deposition is a true record of the testimony given  
12 by the witness.

13 I further certify that I am neither related  
14 to nor employed by any of the parties in or counsel  
15 to this action, nor am I financially interested in  
16 the outcome of this action.

17 In witness whereof, I have hereunto set my  
18 hand and seal this 27th day of April, 2018.  
19

20 \_\_\_\_\_  
Dana Welch

21 Notary Public

My Commission Expires:

22 September 13, 2024  
23  
24  
25